

Appln. Serial No. 10/590,435
Response October 14, 2010

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REMARKS/ARGUMENTS

Claim Amendments

As the Examiner did not enter the prior amendments of Applicant's response of September 14, 2010, they are being resubmitted along with additional amendments. The amendments to the claims are summarized below.

Applicant has amended claim 1 without prejudice by replacing "antifibrillogenic agent ... comprising a peptide consisting of" to state that the "antifibrillogenic agent...consists of peptide...".

Claim 3 was amended by replacing "wherein the agent comprises a peptide consisting of..." with "wherein the peptide is ".

Claims 1 and 3 were further amended to remove the phrase "or an isomer thereof, a retro or a retro-inverso isomer thereof,".

Claims 9 and 11 were amended to add "or a salt thereof" to the end of the claims.

Claim 62 was amended to replace "ro" with "or".

New claim 64 was added with the same wording as claim 63 except dependent on Claim 3.

The withdrawn claims (claims 32-35, 40-50 and 57 - 61) have been cancelled without prejudice to preserve the right to pursue them in a continuation, continuation-in-part or divisional application.

It is submitted that the amendments find support in the application and claims as originally filed and entry of said amendments is respectfully requested.

Remarks

Applicant wishes to thank the Examiner for the teleconference of September 13, 2010. In response to that discussion and the comments of the Advisory Action, in addition to the amendments made in the response of September 14, 2010, Applicant has amended the claims without prejudice to further remove reference to retro and retro-inverso isomers and to cancel the previously withdrawn claims.

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In the conversation with the Examiner, the Examiner indicated that such an amendment would likely render claims 1 -3, 9-11, 13-16 and 62-64 pending in the current patent application allowable. Applicant has made these amendments without prejudice to pursuing any cancelled subject matter in a continuation, continuation-in-part and/or divisional application. In fact, a continuation application is going to be filed, as suggested by the Examiner, with claims including said subject matter.

It is submitted that the claims as currently amended overcome the Examiner's rejections noted in the July 14, 2010 office action and the September 27, 2010 advisory action. Applicant's response of September 14, 2010 is resubmitted and incorporated by reference herein. For completeness, Applicant's response to the Examiner's 35 USC§102(b) rejections and claim objections are reproduced below.

35 USC§102(b)

1. The Examiner rejected claims 1-3, 9-11 and 13-16 and 62 and 63 as being anticipated by US2002/0119926 A1 to Fraser. Applicant traverses the rejection as follows.

The basis of the Examiner's rejection appears to be that the phrase "antifibrillogenic agent ...comprising a peptide consisting of" still leaves the claims regarding the composition of the peptide open ended and thus anticipated by Fraser. In response, Applicant has amended claims 1 and 3 without prejudice. Claim 1 was amended to state that the antifibrillogenic agent...consists of peptide.... Claim 3 was amended to refer to the peptide is. It is submitted that this overcomes the Examiner's rejections of claims 1 and 3 and also of claims 2, 9 - 11, 13-16 and 62 and 63 which are dependent directly or indirectly on claims 1 or 3

As such, it is believed that this response and amendments traverses the Examiner's rejections to the claims and the rejections are requested to be withdrawn.

2. The Examiner rejected claims 1 and 13 - 15 as being anticipated by US Patent No. 4,426,324 to Meienhofer. Applicant traverses the rejection as follows.

The Examiner stated that as the claims include isomers of ANX, the tripeptide AEN of Meienhofer anticipates the aforementioned claims. Applicant has amended claim 1 to remove the term "an

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isomer thereof". It is submitted that this overcomes the Examiner's rejection to claims 1 and dependent claims 13 – 15 and the rejection is requested to be withdrawn.

3. The Examiner rejected claims 1 and 13 – 15 as being anticipated by US Patent No. 7,056,889 to Villanueva et al. Applicant traverses the rejection as follows.

The Examiner stated that as the claims include isomers of ANX, the tripeptide GAN of Villanueva et al. anticipates the aforementioned claims. Applicant has amended claim 1 to remove the term "an isomer thereof". It is submitted that this overcomes the Examiner's rejection to claims 1 and dependent claims 13 – 15 and the rejection is requested to be withdrawn.

Claim Objections

The Examiner objected to claim 62 on the basis that "or" was misspelled. Claim 62 was amended to correct the typographical error. It is submitted that this traverses the Examiner's objection to claim 62 and the objection is requested to be withdrawn.

The Commissioner is hereby authorized to charge any fee which may be required to fully reply and enter this response, including any claim fees or extensions of time fees, or otherwise to keep the application in good standing, to our firm's Deposit Account No. 15-0633.

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Should the Examiner like to discuss the matter, she is kindly requested to contact Anita Nador at 416-601-7530 at her convenience.

Respectfully submitted,
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Dated: October 14, 2010

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